IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10896 OF 2004

Navalkishor Bagmal Agarwal. ... Petitioner
v/s.
Pune Peoples' Co-op.Bank & ors. ...Respondents

Mr.Girish Godbole for petitioner.

Mr.K.J.Hakani for res.No.1.

CORAM : H.L. GOKHALE &
SMT.R.S.DALVI, JJ.

DATE : 9th August 2005

P.C. :

1. Heard Mr.Godbole in support of this petition. Mr.Hakani appears for respondent No.1-Bank.

2. This petition is filed for enforcement of guidelines issued by the Reserve Bank of India for one time settlement for chronic non-performing assets. Mr.Godbole, learned Counsel appearing for the petitioner, submits that respondent No.2 RBI has statutory powers under the Banking Regulations Act, 1949 to issue guidelines and the 1st respondent-Bank is supposed to implement them. Mr.Hakani, learned Counsel appearing for the 1st respondent-Bank, has rightly pointed out that these guidelines are essentially draft guidelines for the primary Co-operative Urban Banks and as

stated in Clause 2(c), the Scheme is to be approved by the Board of Directors of the Bank concerned. The guidelines also specifically provide that the case of willful defaults will not be considered in the Scheme.

3. Considering the above position, it is not possible for us to accept the submission of Mr.Godbole that these guidelines are enforceable as such and whatever offer is given in terms of petitioner's undertaking, should be accepted by the Bank. That certainly cannot be. Even in the case of Nationalised Banks, a Division Bench in the judgment rendered in the case of **Kanwar Vilas Raj Nath & anr. vs. Syndicate Bank (Writ Petition No.502 of 2005) decided on 12th April 2005**, to which one of us (Gokhale, J.) was the Member, has clearly held that these guidelines cannot be enforced, if the concerned Bank finds that there are departures on the part of the party proposing a settlement. In the present case, considering the fact that these guidelines are in the nature of draft guidelines, we cannot issue any writ against respondent No.1-Bank to enforce them and to accept the proposal given by the petitioner. The amount due to the 1st respondent-Bank is in the range of Rs.1.5 Crores

according to the petitioner, whereas it is Rs.1.7 Crores according to the 1st respondent-Bank. Although the petition is being dismissed, it will still be open to the petitioner to make an appropriate proposal for re-schedulement of payable amounts and it will certainly be open to the 1st respondent-Bank to take appropriate decision. Petition is dismissed.

4. Mr.Godbole appearing for the petitioner makes a request that the interim protection not to take coercive measure be continued for some more time. Request is rejected.

(H.L. GOKHALE, J.)

(SMT. R.S.DALVI, J.)